

## GSA Board of Contract Appeals

## 6101.51

professional guidelines in evaluating an individual's conduct.

(b) *Ex parte communications.* No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, without the knowledge and consent of the adverse party, regarding any matter at issue in that appeal. This provision does not apply to consultation among Board members or to ex parte communications concerning the Board's administrative functions or procedures.

(c) *Sanctions.* When a party or its representative or attorney or any expert/consultant fails to comply with any direction or order issued by the Board (including an order to provide or permit discovery), or engages in misconduct affecting the Board, its process, or its proceedings, the Board may make such orders as are just, including the imposition of appropriate sanctions. The sanctions may include:

(1) Taking the facts pertaining to the matter in dispute to be established for the purpose of the case in accordance with the contention of the party submitting the discovery request;

(2) Forbidding challenge of the accuracy of any evidence;

(3) Refusing to allow the disobedient party to support or oppose designated claims or defenses;

(4) Prohibiting the disobedient party from introducing in evidence designated documents or items of testimony;

(5) Striking pleadings or parts thereof, or staying further proceedings until the order is obeyed;

(6) Dismissing the case or any part thereof;

(7) Enforcing the protective order and disciplining individuals subject to such order for violation thereof, including disqualifying a party's representative, attorney, or expert/consultant from further participation in the case; or

(8) Imposing such other sanctions as the Board deems appropriate.

(d) *Denial of access to protected material for prior violations of protective orders.* The Board may in its discretion deny access to protected material to

any person found to have previously violated a protective order, regardless of who issued the order.

(e) *Disciplinary proceedings.* (1) In addition to the procedures in this section 6101.33 (Rule 33), the Board may discipline individual party representatives, attorneys, and experts/consultants for a violation of any Board order or direction or standard of conduct applicable to such individual where the violation seriously affects the integrity of the Board, its process, or its proceedings. Sanctions may be public or private, and may include admonishment, disqualification from a particular matter, referral to an appropriate licensing authority, or such other action as circumstances may warrant.

(2) The Board in its discretion may suspend an individual from appearing before the Board as a party representative, attorney, or expert/consultant if, after affording such individual notice and an opportunity to be heard, a majority of the members of the full Board determines such a sanction is warranted.

### 6101.34 Seal of the Board [Rule 34].

The Seal of the Board shall be a circular boss, the outer margin of which shall bear the legend "Civilian Board of Contract Appeals." The Seal shall be the means of authentication of all records, notices, orders, dismissals, opinions, subpoenas, and certificates issued by the Board.

### 6101.35–6101.50 [Reserved]

### 6101.51 Variation from standard proceedings [Rule 51].

The ultimate purpose of any Board proceeding is to resolve fairly and expeditiously any dispute properly before the Board. When, during the normal course of a Board proceeding, the parties agree that a change in established procedure will promote this purpose, the Board will make that change if it is deemed to be feasible and in the best interest of the parties, the Board, and the resolution of the issue(s) in controversy. Although any party may ask the Board to vary from standard proceedings, individuals and small businesses may find such variations to be